

UNITED STATES DISTRICT COURT

DISTRICT OF NEW MEXICO

PETE V. DOMENICI UNITED STATES COURTHOUSE

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JAMES O. BROWNING

District Judge

November 8, 2010

VIA CM/ECF

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Re: United States of America v. Anthony Mirabal, et al., No. CR 09-3207 JB

Dear Counsel:

I want to bring one matter to your attention. I have, with my law clerks, reviewed the Judicial Code of Conduct and do not believe this matter requires me to recuse myself. I want, however, everyone to be fully informed about, and fully comfortable with, my participation in the case.

In 1992 -- before I became a judge -- my wife and I formed Browning Investment Company ("BIC") to hold some of our investments. Browning Investment Company changed its name to Vermejo Property Investment Company on May 15, 2006, but continues to do business under the name Browning Investment Company. BIC receives royalties and distributions from oil and gas interests, as well as from other real estate investments. On March 1, 2010, BIC sold its oil-and-gas interests, but is still receiving some checks and bills. BIC owns Dartmouth Street LLC, which owns several pieces of commercial property.

Since becoming a judge in 2003, I have been easing out of any official position or ownership in BIC. My wife, Jan Browning, is and always has been the principal of Dartmouth Street. She is

Counsel of Record

Re: United States of America v. Anthony Mirabal, et al., No. CR 09-3207 JB

November 8, 2010

Page 2

currently the President, Treasurer, and Director of BIC, although I was President, Treasurer, and Director until December 9, 2005. I no longer have a position in BIC. My son, Eli, is now the Secretary of BIC. Mrs. Browning also currently owns all the stock in BIC. I transferred my interest in BIC to her on December 9, 2005. Her interest remains, however, community property. I also continue to help my wife with BIC and Dartmouth Street.

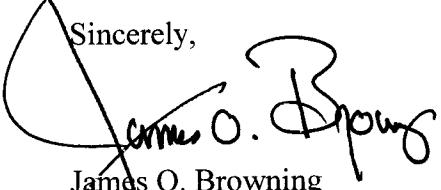
Dartmouth Street has two mortgages with New Mexico Bank & Trust. I personally guaranteed the notes until, I believe, early 2008, when I asked to be removed as a guarantor. I understand I have been removed as guarantor.

Eli is managing director of the Auxiliary Dog Theatre here in Albuquerque and also has a non-profit acting company called Goodpasture, Inc. Aux Dog and/or Goodpasture produced or otherwise put on a play at the Aux Dog from September 2-26, 2010 in which Nicholas Ganjei was one of the actors. The play which the Aux Dog presented is called Picasso at the Lapin Agile, and was directed by Beth Welt. Eli has socialized with Mr. Ganjei in connection with the theater activities as well.

Eli is twenty-nine years old. He lives in our basement. Dartmouth Street has a lease with Goodpasture for the space that Aux Dog uses, but Goodpasture has been unable to pay any rent so far, and Dartmouth Street owns many of the fixtures that Aux Dog uses. Also, my wife and I have made contributions to Goodpasture. To my knowledge, Goodpasture pays my son \$150.00 a week for his services.

Mr. Ganjei invited my son to one political lunch. Eli has also talked to Mr. Ganjei about being on the board of Goodpasture, a renamed Goodpasture, or another non-profit that may operate at the Aux Dog.

I believe that I can continue to be fair and impartial. If anyone, however, has any questions about the above, please let my Courtroom Deputy Clerk, K'Aun Wild, know, and we can perhaps have a conference. I have instructed Mrs. Wild not to tell me who may call. Best regards.

Sincerely,

James O. Browning
United States District Judge